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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,802	10/11/2001	Shoichi Taneichi	0445-0309P	8999

2292 7590 08/19/2005

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EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 08/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/973,802

Applicant(s)

TANEICHI ET AL.

Examiner

William P. Watkins III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6,7,10-13,17-21 and 24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,6,7,10-13,17-21 and 24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 23 March 2005.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The rejection in section 2 of the detailed portion of the office action mailed 08 February 2005 over Vander Wielen et al. in view of Schleinz et al. further in view of Akihiko is withdrawn in view of applicant's amendments and arguments in the paper filed 08 June 2005.

2. The rejection in section 3 of the detailed portion of the office action mailed 08 February 2005 over Vander Wielen et al. in view of Schleinz et al. further in view of Akihiko and further in view of Zelazoski et al. is withdrawn in view of applicant's amendments and arguments in the paper filed 08 June 2005.

3. The rejection in section 6 of the detailed portion of the office action mailed 08 February 2005 over Akihiko under 35 U.S.C. 102 is withdrawn in view of applicant's amendments and arguments in the paper filed 08 June 2005.

4. The rejection, in section 8 of the detailed portion of the office action mailed 08 February 2005, under the doctrine of

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obviousness double patenting over Serial No. 10/372,205, is withdrawn as the instant claims as amended are no longer obvious over the claims of the '205 application as the claims of the '205 application do not recite a heat shrink layer of carded latent crimped fibers.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akihiko (JP-A 09-003755, machine translation previously supplied) in view of Schleinz et al. (U.S. 5,612,118) further in view of Carey, Jr. (U.S. 4,551,378).

Akihiko teaches the use of a web used in a fabric in a diaper of unbonded parallel fibers that form the layer that is gathered, when joined to a layer that is heat shrunk, which comprises parallel heat shrinkable fibers. The parallel fibers of the gathered layer forming a fiber filled projection that

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allows for the attachment of a fastener (section 0020 and 0030 of the detailed description of the machine translation, Figure 3). Schleinz et al. teaches that a joined layer can be gathered by fibers that are heat shrunk or by elastic fibers which are stretched, discontinuously bonded to the layer to be gathered and then allowed to contract (col. 7, line 58 through col. 8, line 10, col. 4, lines 35-40). Carey et al. teaches a web of carded fibers that are latent heat shrinkable fibers. After heating of the heat shrinkable fibers, the web has elastic behavior, in that it can be stretched to over 50% of its length and has a permanent extension of less than 20% after relaxation of the stretch tension (abstract, col. 4, lines 5-10, Table 3, claim 14). The instant invention claims the use of crimped fibers with elastic behavior after heat shrinking that form a gathered web with projections that are fiber filled. It would have been obvious to one of ordinary skill in the art to form the gathers of the laminate of Akihiko et al. by the use previously heat shrunk crimped fibers that have elastic behavior that are stretched and then joined to the layer to be gathered and then allowed to contract in order to avoid heating all layers of the laminate of Akihiko et al. because of the teachings of Schleinz et al. and Carey et al. Selection of

specific fiber density is dependent on the final application and is taken as being within the ordinary skill of the art absent unexpected results.

7. Claims 6, 7, 11-13, 17-19, 20-21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akihiko (JP-A 09-003755, machine translation previously supplied) in view of Schleinz et al. (U.S. 5,612,118) further in view of Carey, Jr. (U.S. 4,551,378) as applied to claims 1-2 and 10 above, and further in view of Zelazoski et al. (U.S. 5,536,555).

Zelazoski et al. teaches putting holes in gathered webs in order to allow good fluid intake rates when the gathered composite is used as a layer in an absorbent personal care article (col. 2, lines 1-15, abstract). Zelazoski et al. also teaches the formation of a gathered top layer by thermal contraction of materials that may be elastic in a second layer and the use of latent thermal crimped fibers in the second layer (col. 6, lines 60-65, col. 7, lines 20-35, col.8, lines 50-65, col. 9, lines 5-15). The instant invention claims a gathered web with perforations used in an absorbent article with latent crimp fibers in the elastic layer. It would have been obvious to one of ordinary skill in the art to have perforated the web

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of Akihiko et al. as modified above in order to have good fluid intake because of the teachings of Zelazoski et al. when used in an absorbent application. The instant claimed basis weight, density and permeability ranges are taken as being met by the combination as the absorbent article of the combination has the same uses as that taught by the instant specification and would therefore have similar ranges when optimized for this application absent unexpected results.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kaiser et al. (U.S. 5,491,016) teaches a heat shrinkable carded inner web that contracts and is point bonded to an outer layer that also is carded. Protrusions are not explicitly taught though the bulk of the web increases upon contraction of the heat shrinkable layer. Elastic stretching over 50% is also not taught. Zafiroglu et al. (U.S. 2003/0134094 A1) teaches many aspects of the instant invention but is not prior art.

9. Applicant's arguments with respect to claims 1-2, 10, 6-7, 11-13, 17-19, 20-21 and 24 have been considered but are moot in view of the new ground(s) of rejection.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WILLIAM P. WATKINS III
PRIMARY EXAMINER

WW/ww

August 16, 2005